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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,002	06/11/2004	Wu Qilian	17157-1	4001

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SHUTTLEWORTH & INGERSOLL, P.L.C.  
115 3RD STREET SE, SUITE 500  
P.O. BOX 2107  
CEDAR RAPIDS, IA 52406

EXAMINER

COHEN, AMY R

ART UNIT PAPER NUMBER

2859

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/710,002

Applicant(s)

QILIAN, WU

Examiner

Amy R. Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/11/04</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Pullen (U. S. Patent No. 5,875,987).

Pullen teaches a tape measure having a double-axis reel assembly comprising: a primary axis (axis of reel 34); a primary spool and a first gear (34) turnable about the primary axis (Col 2, lines 36-38); a flexible measuring tape blade (12) wound upon the primary spool and normally in a fully retracted position on the primary spool (Col 2, lines 27-35); a secondary axis (at 49); a secondary spool and a secondary gear (46) turnable about the secondary axis; (Col 2, lines 40-59) the secondary spool having a self-restoring spring (40); and an endless flexible member (53) connecting the first gear and the second gear (Fig. 5), whereby extension of the tape blade from its retracted position causes turning of the primary spool which in turn causes turning of the secondary spool to place the secondary spool in a spring-wound condition which will retract the tape blade upon release of the tape blade from an extended position (Col 2, line 40-Col 3, line 6).

Pullen teaches the tape measure comprising a housing (10) for enclosing said primary spool and said first gear, said secondary spool and second gear, and said endless flexible member, the housing having a top, bottom, sides and ends with the measuring tape blade having

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apportion being adapted to be gripped by the user of the tape measure so as to extend the tape blade from its normally retracted position substantially inside the housing (Figs. 1-5).

Pullen teaches the tape measure wherein the housing is oblong shaped (Fig. 1).

Pullen teaches the tape measure comprising a tape blade lock (16, 20) combined with the housing and having an actuator (16) extending outside the housing for operation by the user to selectively maintain the measuring tape blade at a desired extended position during use (Col 2, lines 54-59).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullen.

Pullen discloses the measuring tape as described above in paragraph 2.

Pullen does not disclose the measuring tape wherein the proportions of the housing are approximately 3: 1.5: 1 in length: width: height.

Regarding the proportions of the housing: Pullen discloses a tape measure and housing where the housing has proportions but does not specifically states a particular value for these proportions. However, to choose a housing proportion of 3: 1.5: 1 in length: width: height, absent any criticality, is only considered to be the "optimum" value of the housing proportions, as stated above, that a person having ordinary skill in the art would have been able to determine

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using routine experimentation based, among other things, on the desired accuracy and since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the housing proportions be 3: 1.5: 1 in length: width: height, in order to more comfortably fit within the hand of the user and in order to maximize the amount of tape that the housing could hold.

5. Claims 6, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullen in view of Lin (U. S. Patent No. 6,182,916).

Regarding claim 6: Pullen discloses the tape measure as described above in paragraph 2 and in which the actuator of the tape blade lock extends outside one of the top sides of the housing and is operable by the user to selectively engage and hold the primary spool thereby maintaining the measuring tape blade at a desired extended position as long as the actuator is held by the user (Figs. 1-5 and Col 2, lines 54-59).

~~Pullen does not disclose the tape measure wherein the actuator of the tape blade lock extends outside one of the sides of the housing.~~

Lin discloses a tape measure (11) in which the actuator (30) of the tape blade lock extends outside one of the sides of the housing and is operable by the user to selectively engage and hold the primary spool thereby maintaining the measuring tape blade at a desired extended position as long as the actuator is held by the user (Figs. 2-4 and Col 2, line 53-Col 3, line 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tape measure of Pullen to include the actuator located on a side of the

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housing, as taught by Lin, so that a user could tentatively stop and hold the extended tape measure at a desired location with the user's thumb, making it more convenient to use (Lin, Col 1, lines 58-64).

Regarding claims 8 and 9: Pullen discloses the tape measure as described above in paragraph 2 and in which the actuator of the tape blade lock extends outside one of the top sides of the housing and is operable by the user to selectively engage and hold said measuring tape blade so as to maintain said measuring tape blade at a desired position during use (Figs. 1-5 and Col 2, lines 54-59).

Pullen does not disclose the tape measure wherein the actuator of the tape blade lock extends from the same end of the housing and in which the actuator has a lock that maintains the actuator in a locked position holding the measuring tape blade in an extended position when the actuator is released by the user.

Lin discloses a tape measure (11) in which the actuator (12) of the tape blade lock extends from the same end of the housing and is operable by the user to selectively engage and hold said measuring tape blade so as to maintain said measuring tape blade at a desired position during use and in which the actuator has a lock that maintains the actuator in a locked position holding the measuring tape blade in an extended position when the actuator is released by the user (Figs. 1-4 and Col 1, lines 28-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tape measure of Pullen to include the actuator located on the same end of the housing as the measuring tape blade, as taught by Lin, since it is already well-known in the art to have an actuator located at the same end of the housing as the measuring tape blade and to

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have a lock that maintains the actuator in a locked position (Lin, Col 1, lines 28-36, and Prior Art Figs. 1A, 1B).

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pullen in view of Seymour (U. S. Patent No. 6,643,948).

Pullen discloses the tape measure as described above in paragraph 2 and in which the actuator of the tape blade lock extends outside one of the top sides of the housing and is operable by the user to selectively engage and hold the primary spool thereby maintaining the measuring tape blade at a desired extended position as long as the actuator is held by the user (Figs. 1-5 and Col 2, lines 54-59).

Pullen does not disclose the tape measure wherein the actuator of the tape blade lock extends from the bottom of the housing.

Seymour discloses the tape measure (10) in which the actuator (22) of the tape blade lock extends from the bottom of the housing and is operable by the user to selectively engage and hold the primary spool thereby maintaining the measuring tape blade at a desired extended position as long as the actuator is held by the user (Figs. 1-5 and Col 3, lines 13-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tape measure of Pullen to include the actuator located on the bottom of the housing, as taught by Seymour, so that a user engage the brake with fingers making it a more convenient location (Seymour, Col 3, lines 13-27).

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*Conclusion*

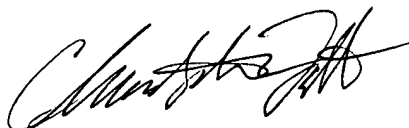
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents teach tape measures Pritchard (U. S. Patent No. 6,826,845), Gilliam (U. S. Patent No. 6,349,482), Lin (U. S. Patent No. 6,167,635), Li (U. S. Patent No. 6,115,933), Liu (U. S. Patent No. 6,032,896), Decarolis et al. (U. S. Patent No. 5,820,057), Cheng (U. S. Patent No. 5,471,761), and Mitchell (U. S. Patent No. 4,506,446).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
March 7, 2005



Christopher Fulton  
Primary Examiner  
Tech Center 2800